

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEVEN BRENT KIME,

Plaintiff,

v.

Case No. 4:06-cv-28
HON. ROBERT HOLMES BELL

KURT JONES, et al.,

Defendants.

/

OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S

REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties. The Court has received objections from the defendants. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made.

Defendants argue that the case should be dismissed for failure to exhaust grievance remedies. The record establishes that plaintiff filed numerous grievances complaining of the conduct which forms the basis of his allegations in the instant complaint. The recent United States Supreme Court decision in *Jones v. Bock*, 127 S.Ct. 910 (2007) is the controlling authority on the issue of exhaustion. Contrary to defendants' argument, the United States Supreme Court rejected the Sixth Circuit Court of Appeals' requirement that a prisoner must specifically name each defendant in a

grievance in order to exhaust grievance issues. Defendants have not satisfied their burden under *Jones* of establishing that plaintiff failed to exhaust administrative grievances.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge is approved and adopted as the opinion of the court.

IT IS FURTHER ORDERED that defendants' motion to dismiss (Docket ## 34, 52) are granted in part. Plaintiff's ADA claim and claims for equitable relief are DISMISSED.

Date: February 21, 2007

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE